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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAN MATHESON

Appeal 2007-1129
Application 09/680,604
Technology Center 2100

Decided: February 27, 2008

Before TERRY J. OWENS, HUBERT C. LORIN, and
ANTON W. FETTING, *Administrative Patent Judges*.

LORIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Matheson (Appellant) seeks our review under 35 U.S.C. § 134 of the final rejection of claims 1-6, 8-13, and 15-19. Claims 7, 14, and 20 have been cancelled. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF DECISION

We AFFIRM.¹

THE INVENTION

The Appellant's claimed invention is directed to a "a system and method for capturing, storing, and tracking issues and decisions made during the development of a product." (Specification 1:5-6.) The system involves a database (Specification 6:13; see Fig. 1, element 30) comprising a "Decision Tracking object model 10d" (Specification 6:18; see Fig. 1). In a preferred embodiment (see Fig. 2), the "Decision Tracking object model 10d" includes "Decision object 110," "Question object 120," "Design Issue object 130," and "Answer object 140." (Specification 6:32-33.)

A Decision object 110 encapsulates a design decision about an aspect of a product. Various types of Decisions may be defined that are specific to a particular design aspect.

A Question object 120 encapsulates a question which may or may not be relevant to the formation of a design decision that is encapsulated by a Decision object 110.

A Design Issue object 130 encapsulates a design issue that may be addressed by posing questions and obtaining answers to those questions, which ultimately lead to a design decision.

An Answer object 140 encapsulates an answer to a question encapsulated in a Question object 120.

(Specification 7:1-11). Each of these objects may have a public interface (Specification 7:21; Fig. 3) by which information may be "captured" for subsequent querying (Specification 8:6-21), "encapsulated" for subsequent

¹ Our decision will make reference to Appellant's Appeal Brief ("Appeal Br.," filed Mar. 24, 2006), the Examiner's Answer ("Answer," mailed May 18, 2006), and to the Reply Brief ("Reply Br.," filed Jul. 7, 2006).

storing in a database (Specification 8:27 – 9:13; Fig. 4), and/or accessed (Specification 10:15; Fig. 8). The public interface is software-driven. (Specification 8:22-26; Fig. 3). “Capturing” information may be accomplished by, for example, a user manually entering data via the interface or created automatically by an application. (Specification 10:5-13.)

Claims 1, 8, and 15, the independent claims, reproduced below, are representative of the subject matter on appeal.

1. A computer system for capturing decision-related data related to a product design, comprising:

a question software interface for capturing a question in a question object that encapsulates text-based information related to a design issue associated with said product design;

an answer software interface for capturing an answer in an answer object that encapsulates text-based information addressing information encapsulated in a selected question object and that is linked to said selected question object; and

a decision software interface for capturing a decision in a decision object that encapsulates text-based information defining a product requirement in response to information in said selected question object and that is linked to said selected question object.

8. A method for capturing decision-related data related to a product design using a computer system, comprising:

capturing, by a question software interface of said computer system, a question in a question object that encapsulates text-based information related to a design issue associated with said product design;

capturing, by an answer software interface of said computer system, an answer in an answer object that encapsulates text-based information addressing information encapsulated in a selected question object and that is linked to said selected question object; and

capturing, by a decision software interface of said computer system, a decision in a decision object that encapsulates text-based information defining a product requirement in response to information in said selected question object and that is linked to said selected question object.

15. A computer readable storage medium tangibly embodying program instructions implementing a method for capturing decision-related data related to a product design, the method comprising the steps of:

capturing a question in a question object that encapsulates text-based information related to a design issue associated with said product design;

capturing an answer in an answer object that encapsulates text-based information addressing information encapsulated in a selected question object and that is linked to said selected question object; and

capturing a decision in a decision object that encapsulates text-based information defining a product requirement in response to information in said selected question object and that is linked to said selected question object.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Sebastian	US 5,822,206	Oct. 13, 1998
Thackston	US 6,295,513 B1	Sep. 25, 2001
Twigg	US 2002/0012007 A1	Jan. 31, 2002

The following rejections are before us for review:

1. Claims 1, 8, and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Sebastian.
2. Claims 2, 4-6, 9, 11-13, 16, and 18-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sebastian and Thackston.
3. Claims 3, 10, and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sebastian, Thackston, and Twigg.

ISSUES

The first issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 1, 8, and 15 as being anticipated by Sebastian. This issue turns on whether Sebastian teaches (a) an answer object that is linked to a selected question object and (b) a decision object that is linked to a selected question object.²

The second issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 2, 4-6, 9, 11-13, 16, and 18-19 as unpatentable over Sebastian and Thackston. This issue turns on whether the

² Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii) (2007).

prior art would have led one having ordinary skill in the art to the claimed invention comprising a question object, answer object, and decision object.

The third issue before us is whether the Appellant has shown that the Examiner erred in rejecting claims 3, 10, and 17 as unpatentable over Sebastian, Thackston, and Twigg. This issue turns on whether the prior art would have led one having ordinary skill in the art to the claimed invention comprising objects stored in a separate relational database and foreign keys.

FINDINGS OF FACT

We find that the following enumerated findings are supported by at least a preponderance of the evidence. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Office).

Claim construction

1. The claims refer to a “question object,” “answer object,” and a “decision object.” The claims state that each of these “objects” “encapsulate text-based information.”
2. The Specification nowhere defines the term “object.” Within the context of the software development arts, the term “object” is known to be minimally a data element, and other data elements and executable instructions may be, but are not necessarily, associated with that data element.
3. The Specification describes the “question object” as information. In discussing the operation of the “question interface,” the Specification indicates that it has the ability to capture information

and encapsulate it in a “question object.” “The Question interface 220 may also provide access to follow-on questions encapsulated in associated Question objects 120.” (Specification 8:6-9.)

4. The word “answer” means “something said or written in return to a question, argument, letter, etc.” (*Webster’s New World Dictionary, Third College Dictionary* 57 (1988), “answer,” definition 1.).
5. The word “question,” in turn, means “something that is asked; interrogative sentence, as in seeking to learn or in testing another’s knowledge; query” (*Webster’s New World Dictionary, Third College Dictionary* 1102 (1988), “question,” definition 2.).
6. “Capturing” information may be accomplished by, for example, a user manually entering data via the interface or created automatically by an application. (Specification 10:5-13.)

The scope and content of the prior art

7. Sebastian is directed to a computer-based design system for designing a part. The system employs a material selector module. Col. 5, ll. 59-64.
8. Col. 5, ll. 59-64 of Sebastian reads:

The material selector module determines a list of material properties and associated threshold values that are critical for success in the design of the product. The material selector module may be regarded as an expert system comprising, or having access to, part, tool and process knowledge.
9. Col. 6, ll. 40-44 of Sebastian reads:

By taking the economics of product design and production into account at an early stage, decisions and constraints can be determined before detailed designs are made. This prevents

designs being made or prototyped that are economically infeasible.

10. Col. 15, ll. 34-36 of Sebastian reads:

The material selection module 72 [Fig. 4] can provide its output in the template notation of the present invention.

11. Col. 16, ll. 39-45 of Sebastian reads:

The material properties database 90 supports multiple data representations for any given property. The database 90 supports an SQL interface to accomplish extensive pattern matching query operations, for example, return all resins with a glass transition temperature greater than 150 C. The material selector module 72 can generate a series of queries in the form of inequalities for specific property values.

12. Col. 17, ll. 4-35 of Sebastian reads:

The core design module 76 concurrently designs the part, tool and process. The core design module can utilize the information produced by the material selector module 72 and the engineering economics estimator module 74 to generate a more feasible design.

The core design module 76 can request functional knowledge from the user to for use in designing the part, tool and process concurrently. The core design module utilizes information about the function that the part performs during the design process. For example, if the user wishes to design a part that has a join, the user will interact with the core design module 76, for example, by inputting that the user wishes to include a join in the design. The core design module 76 will present the user with a list of possible options that fulfill the user's requirements. The user can then select one of the options (e.g., a type of join) that the core design module 76 suggests.

The core design module 76 uses a frame-based approach to represent knowledge. FIG. 5 illustrates in block diagram form a feature template data structure used by the core design module 76. Each feature template 100 stores information as form/function pairs. The form/function pairs comprise

knowledge about various geometric primitives, organized by function. Each feature template 100 includes knowledge about parts 94, tools 96 and processes 98.

The core design module 76 also utilizes material information 92 about part 94, tool 96 and process 98. This material information is obtained from the material properties database 90. In the representative embodiment, the material to be used is initially determined by the material selector module 72 (e.g., at step 44.)

13. Thackston is directed to a computer-based system for undertaking an engineering design.
14. Twigg is directed to an internet-based design system.

Any differences between the claimed subject matter and the prior art

15. The prior art does not explicitly disclose a “question object,” “answer object,” and a “decision object.”

The level of skill in the art

16. Neither the Examiner nor Appellant has addressed the level of ordinary skill in the pertinent arts of computer security. As such, we will therefore consider the cited prior art as representative of the level of ordinary skill in the art. *See Okajima v. Bourdeau*, 261 F.3d. 1350, 1355 (Fed. Cir. 2001) (“[T]he absence of specific findings on the level of skill in the art does not give rise to reversible error ‘where the prior art itself reflects an appropriate level and a need for testimony is not shown.’”) (Quoting *Litton Indus. Prods., Inc. v. Solid State Sys. Corp.*, 755 F.2d 158, 163 (Fed. Cir. 1985)).

Secondary considerations

17. There is no evidence on record of secondary considerations of non-obviousness for our consideration.

PRINCIPLES OF LAW

Claim Construction

“The Patent and Trademark Office (“PTO”) determines the scope of claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction ‘in light of the specification as it would be interpreted by one of ordinary skill in the art.’ *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004).”

Phillips v. AWH Corp., 415 F.3d 1303, 1316 (Fed. Cir. 2005).

Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Ca.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

Obviousness

Section 103 forbids issuance of a patent when “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.”

KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1734 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including (1) the scope and content of the prior art, (2) any differences between the claimed subject matter and the prior art, and (3) the level of skill in the art. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18 (1966). See also

KSR, 127 S.Ct. at 1734 (“While the sequence of these questions might be reordered in any particular case, the [Graham] factors continue to define the inquiry that controls.”) The Court in *Graham* further noted that evidence of secondary considerations “might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 18.

ANALYSIS

Rejection of claims 1, 8, and 15 as being anticipated by Sebastian.

The claimed system comprises a question software interface, an answer software interface, and a decision software interface. The Examiner found that Sebastian shows these elements at col. 16, ll. 39-45; col. 5, ll. 59-64³ and col. 15, ll. 34-36; and, col. 6, ll. 40-44 and col. 17, ll. 4-35, respectively. (Answer 3-4.) (FF 8-12.)

The Appellant took issue with the Examiner’s view that Sebastian describes an answer software interface and a decision software interface as claimed.

Regarding the answer software interface, according to claim 1, its function is to “captur[e] an answer in an answer object that encapsulates text-based information addressing information encapsulated in a selected question object and that is linked to said selected question object.” According to claim 1, the “question object” contains a question captured by the question software interface.

³ The Answer (see p. 4) refers to “col. 5, ll. 59-34.” We think the Examiner means “col. 5, ll. 59-64.”

The Appellant argued that

Sebastian merely describes a material selector module whose output includes “a list of material properties and associated threshold values for a part... “see Sebastian at col. 15, lines 32-35. The Appellant respectfully submits that Sebastian’s output is not an answer. This follows from the fact that, in Sebastian, no question is being asked. As such Sebastian does not teach an answer object that is linked to the selected question object.

(App. Br. 6.)(See also Reply Br. 3-4.)

The Appellant’s summary of the Examiner’s position appears to be correct. In response to the Appellant’s argument in the Appeal Brief, the Examiner maintained the position that Sebastian’s output *is* an answer, stating:

Sebastian teaches an answer object that is linked to a selected question object (Col. 5, line 59 - Col. 6, line 24, i.e., "the material selector module uses the knowledge contained in the nature of the end-use application (what kind of part is it), in conjunction with its operating environment (where will the part perform) to define the short list of material properties and associated threshold values that are critical for success."). *Please note that the answer corresponds to the list of materials in response to a knowledge-contained question such as "what kind or part is it" or "where will the part perform".*

Furthermore, Sebastian teaches that *queries* are formulated to any of a number of remote data servers to generate a ranked list of suitable materials (Col. 6, lines 25-27). Sebastian teaches that the material properties database 90 supports an SQL interface, or query interface, to accomplish query operations such as return all resins with a glass transition temperature greater than 150 C (Col. 16, lines 39-45). Queries correspond to questions and the answer would correspond to the generated list of materials. No difference is seen between Sebastian’s device and appellant’s. It is not clear from appellant’s arguments whether the use of a question mark is seen as the difference between the inventions. However, the use of a punctuation mark is not considered to be a distinction with a difference since the database

must be "queried" in both instances and an "answer" returned. *The output of the material selection module corresponds to the answer or the generated list of materials* (Col. 15, lines 35-37).

(Answer 7-8.)(Emphasis in original and added.)

The Appellant, in the Reply Brief, reiterated the argument that "Sebastian's output is not an answer." (Reply Br. 4.) The Appellant also questioned the Examiner's suggestion that Sebastian's database queries "teach a question software interface for capturing a question." (Reply Br. 4.) "Moreover, Sebastian's database queries are not linked to an answer in an answer object or a decision in a decision object." (Reply Br. 4.)

The dispute is over whether Sebastian's teaching of an output is an "answer" as called for by claim 1; the Appellant is arguing that Sebastian's output is not an "answer" and the Examiner is arguing that it is. This necessarily begs the question: what does the term "answer" mean in the context of claim 1? In that regard, we find nothing in the Specification (and the Appellant does not direct us to any such disclosure) defining the term "answer." Accordingly, it is given its ordinary and customary meaning. In that regard, the word "answer" means "something said or written in return to a question, argument, letter, etc." (FF 4.) In the context of the claim, "answer" thus refers to the response given in return to an asked "question." The word "question," in turn, means "something that is asked; interrogative sentence, as in seeking to learn or in testing another's knowledge; query." (FF 5.) Note that here, too, the term "question" as it is used in the claim must be given its ordinary and customary meaning. We find nothing in the Specification, and the Appellant does not direct us to any such disclosure, defining the term "question".

Given its ordinary and customary meaning, we agree with the Examiner that Sebastian's output qualifies as an "answer" as the term is used in the claim. The output from Sebastian's product selector is in response to a question. Sebastian explains (col. 16, ll. 28-38) that the material selector module draws upon a material properties database which supports an SQL interface for accomplishing query operations to return results for the queries. The results are "answers" linked to the queries (i.e., "questions"). The Appellant argues that Sebastian does not "link" the answers to the questions but, as with other terms in claims, the Appellant never explains why the "link" as used in the claimed invention is different from that of Sebastian. Clearly, when a question is asked and a response is received for that question, a link is established between the answer and the question.

Accordingly, we are not persuaded by the Appellant's argument that Sebastian fails to anticipate the claimed invention on the grounds that Sebastian's output is not an answer because no question is being asked.

Regarding the decision software interface, according to claim 1, its function is to "captur[e] a decision in a decision object that encapsulates text-based information defining a product requirement in response to information in said selected question object and that is linked to said selected question object."

The Appellant argued that

Sebastian merely describes evaluating economics of a project design into account to determined decision and constraints before detailed designs are made. See Sebastian, col. 6 lines 40-43. The Appellant respectfully submits that evaluating economics of product design before making detailed designs does not constitute a decision object linked to a question object. Sebastian further teaches that the material

selector module "can provide its output in the template notation of the present invention." See Sebastian at col. 15, lines 35-37. However, the feature template of Sebastian does not comprise a decision object that is linked to a selected question object.

(App. Br. 6-7.) (See also Reply Br. 4.)

The Examiner responded by arguing that

Sebastian teaches a decision object that is linked to a selected question object (Col. 6, lines 40-44, i.e., "By taking the economics of product design and production into account at an early stage, *decisions* and constraints can be determined before detail designs are made." Sebastian discloses "For example, when *deciding* upon an electronics enclosure for automotive under-hood *environments*, the material selector module automatically specifies thermal and chemical resistance constraints, electrical properties, impact considerations typical of use and abuse, cost, even basic size parameters[)].". There is a decision made by the material selector module based on the questions "what kind of part is it" or its *operating environment* "where will the part perform" and thereby generate a ranked list of materials (Col. 5, line 59 to Col. 6, line 27).

(Answer 8).

The Appellant responded by arguing that

Sebastian does not teach a decision object that is linked to a selected question object. ... Appellant respectfully submits that evaluating economics of product design before making detailed designs does not constitute a decision object linked to a question object.... [T]he feature template of Sebastian does not comprise a decision object that is linked to a selected question object. Accordingly, Sebastian does not teach at least the limitation of an answer object that is linked to a selected question object and a decision object that is linked to a selected question object.

(Reply Br. 4.)

We are not persuaded by the Appellant's argument. We agree with the Examiner that Sebastian discloses that a decision is made as a result of the answers obtained from the output of the material selector module.

Sebastian's decision is linked to the question via the answer to which the question itself is linked. The Appellant does not show that the "linking" of the claimed invention differs in any respect from linking that Sebastian accomplishes in the course of answering questions and making decisions.

The Appellant also argued that Sebastian does not "capture" questions, answers, and decisions. (App. Br. 7-8 and Reply Br. 3-4.) We are not persuaded by this argument. As the term is used in the claim, "capture" simply refers to common techniques for entering data into a computer. (FF 6.) Based on our review of Sebastian, it discloses a computer-based system handling questions, answers, and decisions. (FF 8-12.) To be able to do so, such information must necessarily have been entered into the computer or, in the word of the claim, "captured."

We are not persuaded that the Appellant has shown error in the rejection.

Rejection of claims 2, 4-6, 9, 11-13, 16, and 18-19 as being unpatentable over Sebastian and Thackston.

The Appellant separately argues the claims in the following groups: (a) claim 2; (b) claims 9 and 16; (c) claim 4; and (d) claims 11 and 18 (App. Br. 9-10). Claims 5, 6, 12, 13, and 19 are not separately argued. We will treat these claims as part of group (a). We select claim 2 as the representative claim for group (a) and the remaining claims 5, 6, 12, 13, and 19 stand or fall with claim 2. We select claim 9 as the representative claim for group (b) and the remaining claim 16 stands or falls with claim 9. We

select claim 11 as the representative claim for group (d) and the remaining claim 18 stands or falls with claim 11. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

Claim 2

Claim 2 further limits the system of claim 1 requiring the question, answer, and decision objects to be “stored in a tool-neutral persistent form.”

The Examiner argued that Sebastian discloses all the claimed elements except for this feature, for which Thackston relied. The Examiner argued that Thackston discloses

- each of said question object, said answer object, and said decision object is stored in a tool-neutral persistent form (Col. 5, lines 47-51);
- said question interface captures an association of said question object with a decision object (Fig. 19B, element 1926, 1936 or Fig. 23, elements 4320 and 4360);
- said answer interface captures an association of said answer object with a question object (Fig. 23, element 4320, 4360);
- said decision interface captures an association of said decision object with an answer object (Fig. 19B, output of element 1928 is associated with decision element 1936); [and]
- said answer interface captures an association of said answer object with a question object (Fig. 23, element 4320, 4360, query and result).

(Answer 5.) According to the Examiner, it would have been obvious to incorporate these features in Sebastian “because it would provide an improved system that maintains engineering data, such as design documents and three dimensional model data, in a common, neutral format, which is accessible by authorized team members through a graphical user interface (Thackston, Col. 3, line 64 - Col. 4, lines 4).” (Answer 5-6.)

For its part, the Appellant argued that the Examiner’s reliance on Thackston’s

data neutrality supporting the upload and conversion of design modes from various formats into a single standard format . . . does not constitute storing objects in a tool-neutral persistent form as recited in claim 2. There is no mention of storing anything. Also, the data to which Thackston refers is not a question object, answer object or a decision object.

(App. Br. 9 and Reply Br. 5-6.)

The Examiner responded by arguing that

as defined in the Specification, Page 3, lines 3-4, a tool neutral persistent form allows access to the data by any tool via a publicly defined interface. Thackston discloses a database or storage, so-called Global Manufacturer's Registry (GMR), that provides data neutrality for users by supporting the upload and conversion of part design models from various formats types into a standard neutral format wherein a designer is not precluded from using the GMR based on the fact that it uses a particular part design model format (Col. 5, lines 30-54). Therefore, a designer can access the Global Manufacturer's Registry from any design tool. With respect to question object, answer object or a decision object, Sebastian teaches all these limitations as discussed above and therefore the combination of Sebastian and Thackston is appropriate since both are analogous arts directed to engineering design systems and methods.

(Answer 9.)

The Reply Brief repeated that “data neutrality does not constitute storing objects in a tool-neutral persistent form as recited in the claims.”

(Reply Br. 6.)

We have reviewed Thackston and find the Examiner has correctly described its disclosure. We are satisfied that the Examiner has articulated an apparent reason with logical underpinning for the determination of obviousness.

The Appellant argued that the Examiner's reliance on Thackston is misplaced because "data neutrality does not constitute storing objects in a tool-neutral persistent form as recited in the claims." (Reply Br. 6.) However, the Appellant never explains what the difference is. Apparently, a tool neutral persistent form is one that allows access to data by any tool via a publicly defined interface (Specification 3:1-3). Given the breadth of the claim, the Examiner properly relied on Thackston as "disclos[ing] a database or storage, so-called Global Manufacturer's Registry (GMR), that provides data neutrality for users." (Answer 9.) Col. 5, l. 30, of Thackston, clearly shows this. By not specifically explaining the difference between what Thackston discloses and the claimed "a tool-neutral persistent form," the Appellant's argument is tantamount to a general allegation that Thackston does not teach any of the claim limitations. A statement which merely points out what a claim recites will not be considered an argument for separate patentability of a claim. 37 C.F.R. 41.37(c)(1)(vii) (2007).

Regarding the Appellant's other argument that "the data to which Thackston refers is not a question object, answer object or a decision object" (App. Br. 9 and Reply Br. 5-6), the Examiner clearly explained that it was Sebastian which was relied upon to show the claimed question, answer, and decision objects. *See supra*. The test for obviousness is what the *combined* teachings of the references would have suggested to one of ordinary skill in the art. *See In re Young*, 927 F.2d 588, 591 (Fed. Cir. 1991) and *In re Keller*, 642 F.2d 413, 425 (CCPA 1981).

Claims 9 and 16

The Appellant's arguments with respect to claim 9 are the same as those presented in support of the patentability of claim 2. (App. Br. 9 and Reply Br. 5-6.) For the same reasons we found the arguments as to claim 2 unpersuasive as to the error in its rejection, so, too, we find the arguments unpersuasive as to error in the rejection of claim 9.

Claim 4

The Appellant argued that Thackston does not disclose a "question interface," a "question object," or a "decision object" as set forth in claim 4. The Appellant disputed the Examiner's reliance on Fig. 19B, element 1926, 1936 and Fig. 23, element 4320 in Thackston as showing "said question interface captures an association of said question object with a decision object." (Answer 5.)

The Examiner responded by arguing that

Thackston discloses a question software interface captures an association of said question object with a decision object (Figs. 19A, i.e., INTERACTIVE SESSION USING PART DESIGN MODEL?, If YES then continue with steps 1912-1914 and 1922-1928 up to a DECISION MADE REGARDING DESIGN ISSUES, step 1936 of Fig. 19B). Please note that the decision is associated with the part design model.

(Answer 9-10.)

The Reply Brief countered by stating that

the Examiner equates "Team Member Interaction" (Fig. 19, 1926) to a question interface or question object. Numeral 1926 of Fig. 19B does not depict a question interface. Rather, numeral 1926 merely refers to team member interaction; no question object is present. Further, in addressing the Examiner's previous rejection, numeral 4320 of Fig. 23 does not capture an association of said question object with a decision object; no decision object is present.

(Reply Br. 6.)

We are not persuaded by the Appellant's argument. Thackston is relied upon to show that a question interface was known. Element 1926 of Fig. 19B of Thackston shows team members interacting to discuss design issues. The result of these discussions lead to a decision being made regarding "design issues" (element 1936, Fig. 19B). It would be accurate to characterize element 1926 as a "discussion" interface between discussions entered into by team members and the final design decision. Discussions normally include questions. One of ordinary skill in the art reading this disclosure in Thackston would understand that a discussion leading to a decision regarding "design issues" includes questions. Given Thackston's disclosure of a "discussion" interface, a "question" interface that captures the association between the questions and the design decision would have been obvious to one of ordinary skill in the art.

Claims 11 and 18

The Appellant's arguments with respect to claim 11 are the same as those presented in support of the patentability of claim 4. (App. Br. 10 and Reply Br. 6.) For the same reasons we found the arguments as to claim 4 unpersuasive as to the error in its rejection, so, too, we find the arguments unpersuasive as to error in the rejection of claim 11.

We are not persuaded that the Appellant has shown error in the rejection.

Rejection of claims 3, 10, and 17 as being unpatentable over Sebastian, Thackston, and Twigg.

The Appellant argues the claims as a group. (App. Br. 10-11.) We select claim 3 as the representative claim and the remaining claims 10 and 17 stand or fall with claim 3. 37 C.F.R. § 41.37(c)(1)(vii) (2007).

The Examiner argued that

Sebastian and Thackston discloses the limitations of claims 1-2, 8-9 and 15-16 and further Thackston discloses the use of separate relational database (Col. 6, lines 50-53). Sebastian and Thackston fail to specifically disclose, regarding claims 3, 10 and 17, wherein associations between each of said question object, said answer object, and said decision object are captured using foreign keys. However, Twigg discloses an internet based design/drafting system wherein associations between description data, note data and cost data regarding a design take place (Page 3, 0038, lines 13-24 and lines 32-35, "one or more data fields 36, 46 of each design file 22 can be related to the overall design; Fig. 3, foreign keys correspond to Class #, Description, Note, Cost). Therefore, it would have been obvious to a person of the ordinary skill in the art at the time the invention was made to combine the teachings of Sebastian and Thackston with Twigg because it would provide an improved system wherein relationships of a class object are related using foreign keys or a common column such as shown in Fig. 3, Class #, 32-1,32-2, 32-X; Description 34-1,34-2, 34-x), in order to communicate ideas regarding a design and/or features of a design (Twigg, Page 1,0005, lines 1-3).

(Answer 6.)

The Appellant argued that "Twigg does not disclose a separate relational database file for each defined interface. Moreover, the Appellant respectfully submits that the Class #, Description, Note, Cost are not foreign keys as the Examiner contends. Rather, these items are fields inherent within a design file." (App. Br. 11.)

In response, the Examiner stated "that, as clearly pointed out in the Final Rejection, Thackston discloses the use of separate relational databases

(Col. 6, lines 50-53, i.e., the data stored by the system could be stored at a single location or amongst multiple locations in a so-called hybrid relational object oriented database architecture).” (Answer 10.) Regarding the question of foreign keys, the Examiner responded by arguing that in “Fig. 3, please note that Class #, Description, Note, Cost includes lines connecting the various tables used to represent relationships between data stored in the tables and therefore constitute foreign keys.” (Answer 10.)

There is no dispute that Thackston discloses relational databases. (See col. 6, ll. 52-53.) Accordingly, the Appellant’s argument that Twigg does not disclose relational databases is inapposite since the Examiner relied on Thackston, not Twigg, to show relational databases are known.

Regarding the “foreign keys” limitation, the Examiner relied on disclosure of “Class #, Description, Note, Cost” in Twigg. The Appellant responded by submitting “that the Class #, Description, Note, Cost” are not foreign keys as the Examiner contends. Rather, these items are fields inherent within a design file.” (Reply Br. 7.) However, for this argument to be persuasive, fields within a design file cannot be foreign keys. But the Appellant has not established this. Since the argument that items within a design file cannot be foreign keys is unsupported by evidence, the argument that Twigg’s Class #, Description, Note, Cost are not foreign keys on the grounds that these items are fields inherent within a design file is unpersuasive as to error in the Examiner’s position. Appellant’s attorney’s arguments in a brief cannot take the place of evidence. *In re Pearson*, 494 F.2d 1399, 1405 (CCPA 1974). See also *In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984).

We are not persuaded that the Appellant has shown error in the rejection.

CONCLUSIONS OF LAW

The Appellant has failed to show that the Examiner erred in rejecting claims 1, 8, and 15 as anticipated by Sebastian.

The Appellant has failed to show that the Examiner erred in rejecting claims 2, 4-6, 9, 11-13, 16, and 18-19 as unpatentable over Sebastian and Thackston.

The Appellant has failed to show that the Examiner erred in rejecting claims 3, 10, and 17 as unpatentable over Sebastian, Thackston, and Twigg.

DECISION

The decision of the Examiner to reject claims 1-6, 8-13, and 15-19 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv) (2007).

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AFFIRMED

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